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SUMMARY RECORD OF THE 1253rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 23 July 1993, at 3 p.m.

Chairman: Mr. ANDO

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GE.93-17551 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of the Islamic Republic of Iran (CCPR/C/28/Add.15) (continued)

1. The CHAIRMAN invited Mr. Mehrpour to provide additional clarifications before the members of the Committee made their concluding observations on the second periodic report of the Islamic Republic of Iran (CCPR/C/28/Add.15).

2. Mr. MEHRPOUR (Islamic Republic of Iran) said the fact that the Covenant had been signed and ratified under the former regime, prior to the popular revolution which had brought about radical changes in government policy, legislation and society, posed no threat to the fulfilment of Iran's obligations under that instrument. The present dialogue with the Committee was ample proof of the new Government's firm intention to honour its commitments in that regard. Every effort was being made to ensure respect for the general principles of freedom and justice laid down in the Covenant, which in any case already existed in the Islamic scriptures that formed the basis of the Iranian Government's policy and legislation.

3. It was worth noting that the Islamic Republic of Iran had entered no reservations when ratifying the Covenant - contrary to many Western countries, some of whose numerous reservations concerned apparently very minor issues.

4. He stressed the need for flexibility in interpreting some of the articles in the Covenant to make allowance for cultural differences between the various States parties. A case in point was article 23 (4), which concerned equality of rights and responsibilities in respect of marriage. While his country fully respected the right of both parties to marry the partner of their choice, it viewed the respective responsibilities of the spouses during marriage quite differently from European countries, for instance the custom which was reflected in its civil legislation, was that the husband alone should have responsibility for providing for the family and running the affairs of the household. That situation might well change in the future, but, for the time being such time-honoured Islamic traditions continued to be observed. It was essential to seek ways of reconciling diverging views rather than imposing too restrictive an interpretation which could only result in further difficulties, and his delegation looked to the Committee for assistance in that regard.

5. Further evidence of a commitment to improving the human rights situation was the recent establishment of a parliamentary commission to investigate allegations of human rights violations. The commission's duties included making visits to prisons in order to deal with individual complaints and suggest improvements where appropriate. Another, more academic body had been set up by a group of legal scholars in order to study human rights issues and codify appropriate legislation with a view to preventing violations.

6. Compared to the other countries in the region the Islamic Republic of Iran was making great efforts to comply with the provisions of the Covenant,

as was demonstrated inter alia, by the election of women to Parliament and their increased participation in various other sectors of society. If the Committee examined the facts carefully and objectively, disregarding bad publicity and biased reports, it would recognize that his country had made great strides in that respect.

7. He was of the view that Iran was being subjected to greater pressure than other countries in the region with a poorer human rights record on account of certain issues that were of special concern to the Committee, such as women's rights. Yet what was the situation regarding the rights of Muslim women in non-Muslim countries? In many countries which prided themselves on their democratic traditions it was difficult for young Muslim women to manifest their religious beliefs openly and respect the principles of Islam, with regard for instance to dress.

8. His delegation felt that it was the target of undue criticism on the part of the Committee and asked to be treated in the same way as other States parties. While he acknowledged that the initial report submitted by his country had been somewhat too summary, no effort had been spared in the preparation of the second periodic report, which was much more comprehensive and dealt in detail with particularly difficult issues. It had been hoped that such efforts would have been duly appreciated by the Committee and further encouragement provided, rather than the contrary.

9. He pointed out that the dialogue with the Committee could only be really useful if it provided some constructive criticism and an objective analysis of such inconsistencies with the Covenant as might still exist, as well as suggestions for possible ways of resolving those problems. His delegation would benefit greatly from guidance offered by the Committee in that spirit, which he would willingly convey to the competent authorities in his country with a view to improving the current situation. He was confident that the members of the Committee would heed his request.

10. Mr. EL SHAFEI commended the Islamic Republic of Iran on its second periodic report, which demonstrated its commitment to implementing the provisions of the Covenant, inter alia by amending its legislation and ensuring sufficient protection of the rights and freedoms envisaged by that instrument on the part of the national police, public prosecutors and the judiciary. The dialogue between the Iranian delegation and the Committee had not only been extremely interesting but, for a number of reasons, had also proved quite unique.

11. In the Committee, as in other United Nations treaty bodies, much time had been spent discussing to what extent the existing legislation and social norms based on Shiite doctrines conflicted with the provisions of the Covenant, which were recognized as an international yardstick for rights and freedoms by the signatories to that instrument. The Iranian delegation took the view that, since its legislation was based on religious doctrines and unique historical and cultural traditions, it could not be called into question by any other State party, whether it be Muslim or not.

12. It was worth noting that the specific problems relating to the Islamic Republic of Iran and other Islamic countries had recently been raised in a

much larger forum, namely the World Conference on Human Rights held in Vienna the previous month. In that connection, the Vienna Declaration and Programme of Action had underlined the need to bear in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds.

13. A second important factor which should be taken into account was that the country was still recovering from the effects of a long war during which numerous restrictions had been imposed under the state of emergency. Many members of the Committee had questioned the need for practices such as arbitrary detention, summary trials, torture and execution of opponents of the regime to continue five years after the end of the war. Until such practices were discontinued, the country would be subject to mounting pressure on the part of the international community.

14. The third aspect which rendered the dialogue unique was that, when the Covenant had been drafted, no provision had been made for the specific situation of countries like the Islamic Republic of Iran, although the right of States parties to have their own particular legislation on personal matters including property, marriage and divorce had in no way been questioned.

15. The dialogue had been particularly enlightening and constructive in some respects, and the Committee greatly appreciated the efforts made by the Iranian delegation to clarify some of the more complex issues which had been especially difficult to grasp. However, he shared the concerns expressed by members of the Committee regarding substantiated claims of human rights violations which could not be justified by Iran's special circumstances.

16. With regard to violations of article 6 of the Covenant, the Committee had reliable information from a number of sources which indicated that in 1992 there had been 301 executions, 164 of which had been for political reasons. Moreover, following the demonstrations that had taken place in several cities throughout the country in May 1992, 9 persons had been put to death while a further 10 were currently awaiting execution merely because they had participated in those events. Moreover, the Iranian authorities had refused to cooperate with the Working Group on Enforced and Involuntary Disappearances concerning the 500 cases reported in Iran to date.

17. It had also been brought to the Committee's attention that torture and degrading treatment were being used systematically in Iranian prisons to extract confessions which would lead to prisoners' execution.

18. As to violations of article 14, there was good reason to believe that death sentences were handed down without any guarantees of due process of law. Trials held in secret by the Revolutionary Courts still seemed to be the rule rather than the exception; accused persons were not allowed witnesses or the right to appeal and were denied access to defence counsel.

19. Further causes of concern included the continuing ban on press syndicates and restrictions on the education of women in certain branches of learning.

20. In conclusion, referring to Mr. Mehrpour's comments regarding the Committee's attitude, he stressed that throughout the dialogue the Committee had sought to be objective in its assessment of the human rights situation in the Islamic Republic of Iran. It hoped that its observations would be duly conveyed to the competent authorities in that country.

21. Mr. HERNDL thanked Mr. Mehrpour for the wealth of information he had provided in the course of his often difficult task of explaining his Government's policies. The conciliatory approach he had adopted augured well for the start of a fruitful dialogue, which would, however, need to be continued, in view of the many misunderstandings that persisted with regard to the implementation of the Covenant. The second periodic report of the Islamic Republic of Iran, due in the early 1980s, had reached the Committee in the early 1990s; its third periodic report was now already due. He trusted that submission of that report in the near future would provide an opportunity to continue and improve that dialogue.

22. Referring to the affirmation in the Vienna Declaration and Programme of Action that the protection and promotion of human rights and fundamental freedoms was the first responsibility of Governments, he said that he continued to be concerned about the application of the norms of the Covenant in the Islamic Republic of Iran and the status of the Covenants in Iranian law. According to paragraph 6 of the Iranian report (CCPR/C/28/Add.15), the provisions of the Covenant were incorporated in the Constitution as well as in other laws and put into force accordingly. Yet the statements made by Mr. Mehrpour at the 1193rd and 1194th meetings of the Committee (CCPR/C/SR.1193, para. 15 and CCPR/C/SR.1194, para. 46) seemed to indicate a misunderstanding. To say that the principles of the Covenant were incorporated in the Constitution was to say that the Constitution as such corresponded to the Covenant; but it did not necessarily follow that the Covenant was made part of the constitutional law of the land. Similarly, the fact that the Covenant was part of the legislation did not mean that its provisions were applied. In the light of the discussions between the Committee and the Iranian delegation, he continued to have doubts on that score.

23. Clearly, where there was a conflict between domestic law and the international legal obligations of States, international obligations must prevail. In his view, article 154 of the Iranian Constitution, with its reference to the attainment of "truth", further contributed to that misunderstanding; for the concept of truth was open to interpretation, and a Government's conception of truth might differ from that of the Covenant. Article 154 concluded with the statement that the Islamic Republic of Iran "... supports the just struggles of the mustad'afun [oppressed] against the mustakbirun [arrogant] in every corner of the globe". That statement perhaps lay at the root of a divergence of views that he hoped could be bridged in the course of future dialogue; for no one country could claim to have a monopoly of the truth.

24. With regard to the application of the various articles of the Covenant in the Islamic Republic of Iran, he still believed that some of those articles were not being fully and correctly implemented. Furthermore, the overall situation with regard to human rights was not encouraging. The latest report

of Mr. Galindo Pohl, Special Representative of the Commission on Human Rights, (E/CN.4/1993/41), as well as General Assembly resolution 47/146 and Commission on Human Rights resolution 1993/62, referred in particular to the high number of executions, cases of torture and cruel, inhuman or degrading treatment or punishment, the standard of the administration of justice, the lack of guarantees of due process of law, discriminatory treatment of certain groups of citizens, notably the Baha'is, by reason of their religious beliefs, and restrictions on the freedoms of expression, thought, opinion and the press. The situation of women also left much to be desired. He shared those concerns, particularly with regard to the reports about the treatment of the Baha'i community: where treatment of religious and other minorities was concerned, he was obliged to say that the Iranian Government was seriously disregarding its obligations under the Covenant.

25. Lastly, concerning the Salman Rushdie affair, Mrs. Higgins had clearly analysed the legal situation with regard to article 19; and the Committee on Economic, Social and Cultural Rights had clearly stated that in the case of such a fatwa issued by the religious authorities, State responsibility was incurred when the State did not take whatever measures were available to it to remove clear threats to the rights applicable in the Islamic Republic of Iran in consequence of its ratification of the Covenant.

26. Miss CHANET thanked the Iranian delegation for breaking its lengthy silence in order to resume its dialogue with the Committee. It had to be said, however, that the participants in that dialogue seemed frequently to be talking at cross-purposes. Members of the Committee had posed a large number of questions regarding almost every article of the Covenant. She herself had specifically raised the questions of mass executions and the conditions for passing the death sentence, corporal punishment, the right of appeal to the Revolutionary Courts, and freedom of religion. Mr. Mehrpour had had recourse to four basic tactics in his lengthy replies.

27. Firstly, he had affirmed that the provisions of the Covenant were fully respected, citing various legal provisions in support of that contention. It was to be noted, however, that very few such provisions had been cited in extenso, and many had been cited selectively in order to draw attention to limitations to rights and freedoms provided for therein. She stressed the importance of closely analysing laws in order to establish whether their provisions were in conformity with the Covenant and whether any restrictions provided for were in fact necessary in order to respect certain very precise parameters stipulated in the Covenant, parameters which, furthermore, differed from article to article. Thus, for instance, article 18 (3) permitted limitations necessary to protect order; whereas article 19 (3) (b) permitted restrictions necessary for the protection of public order. Such limitations could not simply be invoked as a justification for imposing blanket restrictions.

28. Secondly, Mr. Mehrpour had referred to foreign law in order to draw parallels with Iranian law. However, the analogy he had drawn with French law was illusory, since the references he had made to doctrine and case law were valid for civil law, but not in the case of criminal law, interpretation of which must be narrow rather than extensive - a fortiori where the death penalty was involved. There was no analogy with situations where a gap

existed in the French criminal law: in such situations the law was not applicable, since higher human rights principles existed that had been integrated in the French Constitution.

29. Thirdly, Mr. Mehrpour had evoked the provisions of Islamic law, often claiming that his country's conceptions were shared by other Islamic countries. However, in its dealings with those countries, the Committee had seen that they had been able to reconcile the requirements of Islamic law with those of compliance with the Covenant.

30. In the same connection, Mr. Mehrpour had cited Iranian laws in order to demonstrate that they conformed with the Covenant, and had then gone on to state that Islamic law in any case prevailed over the Covenant. Thus, on the question of women's rights he had explained that those rights were guaranteed under article 3 of the Covenant, but had then gone on to explain why those rights could not in fact exist. He also claimed that women themselves wished to wear traditional clothing. However, that desire must be moderate in the extreme if the authorities needed to resort to death sentences and raids by militia in order to secure women's compliance with that requirement. Mr. Mehrpour had also justified certain practices by referring to "the nature of women", as well as to the traditional organization of society and the family. It seemed to her that the latter explanation was more plausible than the former.

31. Lastly, Mr. Mehrpour had questioned the competence of the Committee in the Rushdie affair. However, as a lawyer, he was aware that questions of competence were always addressed before questions of substance. Even if his views on the Rushdie case differed from those of the Committee, he had tacitly recognized the Committee's competence by replying to some of its questions.

32. The proceedings at the Committee's forty-sixth, forty-seventh and forty-eighth sessions showed that persons not adhering to the current regime and the State religion were not entitled to the enjoyment of their rights under the Covenant. The Iranian delegation's explanations had failed to clear up a number of points regarding enforced disappearances, massive executions and torture in prisons. She hoped that the voice of the independent experts would make itself heard in the Islamic Republic of Iran and beyond its borders; and that the State party, which by acceding to the Covenant had agreed to subject itself to the scrutiny of the treaty body provided for therein, would not continue to invoke its national law and traditions in order to justify violations of provisions of the Covenant, but would do so only in order to explain the context in which those provisions were implemented.

33. Mr. LALLAH assured the Iranian delegation that it was not alone in having its report subjected to detailed scrutiny by the Committee. One reason why members had put so many questions to the delegation was that, although the second periodic report had been well prepared, it had laid great emphasis on the legal structure in the Islamic Republic of Iran, and had provided very little information on the actual situation. However, the purpose of the exercise was to gauge to what extent reality conformed to the provisions of the Covenant. Mr. El Shafei and Mr. Prado Vallejo had rightly pointed out that, where a State assumed the direction, not just of public affairs, but also of religious matters and of the link between the two, conflicts must

emerge which would prove hard to reconcile. He welcomed the assurance by Mr. Mehrpour that the question of degrading treatment or punishment such as mutilation was being looked into in order to see whether it was in fact in conformity with the Covenant. Mr. Mehrpour had also made many encouraging remarks regarding the changing role of women in Iranian society. However, he had made no reference to the need to employ more women in various positions in the judicial branches, recognized in paragraph 11 of document CCPR/C/SR.1195, or to the possibility that women would be admitted to the Faculty of Law during 1993. Given that the State recognized such a need, should it not take more concrete measures in that regard, such as giving women the same access to educational institutions as was enjoyed by men? The question of the unequal treatment of women under civil law should also be further explored. Why, for instance, were women not regarded as the equals of men for the purposes of giving evidence? Women should be able to have the same effective enjoyment of rights as men; and, as Mr. Sadi had pointed out, Islam and the Covenant pointed in the same direction in that regard, since both sought a just society for all, men, women and children alike. It was for the State to ensure that that aim was secured.

34. Some confusion seemed to exist concerning the question of religion, which had been treated as if it related only to article 27. However, the provisions of article 18 held good for the majority and minorities alike, while article 27 referred not just to religious minorities, but also to linguistic and ethnic minorities. Those minorities enjoyed special rights, but were also entitled to the enjoyment of all the other rights guaranteed by the Covenant.

35. In conclusion, he assured the Iranian delegation that members of the Committee served in an individual capacity, and were not influenced by political considerations when subjecting States parties to scrutiny. The Committee was entitled to put questions regarding reservations entered by States parties, and to urge those States to remove them in the light of their adverse impact on the enjoyment of rights and freedoms.

36. Mr. MAVROMMATIS said that the fact that the delegation of the Islamic Republic of Iran had been requested to appear three times before the Committee reflected the latter's concern with the human rights situation in that country. Although some of the delegation's replies had lacked specificity, he recognized the State party's desire to achieve a more effective dialogue, a desire which had been clearly apparent since the delegation's first appearance before the Committee. It was of course unthinkable that a country with such a history and culture should remain outside the mainstream of international progress. It was clear however that discrimination existed in regard to both religion and political opinion - possibly due to the overriding influence of Islam. A more worrying feature was the unacceptably high number of death sentences imposed. The Covenant, on the other hand, categorically advocated a reduction in the number of instances of capital punishment, thus paving the way for its abolition altogether. The situation in regard to capital punishment had been highlighted by an incident, reported by the Special Representative of the Commission on Human Rights, in which in September 1992 a man had been given 99 lashes before being executed (E/CN.4/1993/41, para. 71). The attempt to distinguish between religious and secular decisions, as had been done in the case of Salman Rushdie, could not possibly

justify such practices. Moreover, there could be no question of challenging the Committee's competence in that regard, since the Committee had a responsibility to examine compliance with article 6 of the Covenant.

37. It was equally clear that there was discrimination in the Islamic Republic of Iran in regard to religion (article 18), the most flagrant case being that of the Baha'is, who were treated differently from members of the recognized religions, namely Jews, Christians and Zoroastrians, let alone from the majority of the population who were Muslims. Since no relevant reservation had been made at the time of accession to the Covenant, it was incumbent on the Iranian Government to guarantee the rights of all religious minorities.

38. He had been impressed by the concluding remarks made at the beginning of the current meeting by Mr. Mehrpour, who had been candid and had furthermore asked for assistance in establishing closer relations with the Committee. From the date of its inception, the Committee had always steered clear of any form of politicization and there could be no question of the Committee singling out the Islamic Republic of Iran for criticism. He sincerely hoped to see the Iranian delegation again in the near future. He warmly welcomed the delegation's wish to improve the dialogue with the Committee, but he had to say that words were not enough.

39. Mrs. EVATT expressed her satisfaction that there were some positive developments to be recorded in regard to the human rights situation in the Islamic Republic of Iran. The State party had ratified the Covenant, submitted reports and participated in the dialogue with the Committee. The delegation had also announced that certain laws would be examined for compatibility with the Covenant, various forms of punishment, such as flogging, would be reviewed and further consideration would be given to the status of women. Iran had made no formal reservations to the Covenant, but there was unfortunately an implicit condition for ratification, the fact that all legislation had to be based on Islamic criteria, which was set out in a number of articles of the Constitution. Islamic criteria were also a source of law when explicit legal provisions were lacking. Islam was a great world religion and its followers were themselves protected by the Covenant and by the human rights principles obtaining in many countries. The fact that in the Islamic Republic of Iran religion was built into every aspect of the law could however restrict the scope of the guaranteed rights and left grey areas where compatibility with the Covenant could not be easily tested except by examining actual practice.

40. The information received from non-governmental organizations (NGOs) and that contained in the report of the Special Representative (E/CN.4/1993/41) strongly suggested an absence of conformity with the Covenant. Many specific cases had been cited by members of the Committee, and on more than one occasion the delegation had appeared unwilling to respond to their comments. Individual cases were, however, often very revealing. One specific example was that of Mr. Bahman Samandari, who had apparently been arrested and executed within two days; it was hard to imagine that proper and fair procedures could have been followed in that case.

41. Her specific questions regarding Salman Rushdie and the fatwa, the apparent persecution of the Baha'i community and the status of women had been intended to bring out how the laws were applied in practice. They had not been answered. The universality and indivisibility of human rights had recently been reaffirmed at the World Conference on Human Rights and national systems had sooner or later to conform to internationally accepted standards.

42. Mr. FODOR said that it was difficult to determine whether the dialogue with the State party had been a useful exercise or not. The information furnished by Mr. Mehrpour had certainly given the Committee a better idea of the human rights situation in the Islamic Republic of Iran, but he had not succeeded in convincing the Committee that the rights enshrined in the Covenant were effectively guaranteed. A number of issues of serious concern had been identified during the dialogue, for example, the frequent imposition of capital punishment, execution after unfair trial, the widespread infliction of torture, cruel and inhuman treatment of prisoners, flogging and amputation, the consistently large numbers of political prisoners, discriminatory practices against women, religious and political groups, and the absence of safeguards in the proceedings of the Revolutionary Courts. The harsh treatment of religious sects which were not recognized by the Government, in particular the Baha'i community, and the restriction of political activities to a small circle of authorized groups were again contrary to the provisions of the Covenant.

43. The interpretation given by the State party to article 27 of the Covenant in regard to the guaranteed rights of ethnic, religious or linguistic minorities was certainly not that normally adopted at the international level. The emphasis placed on the equal rights of all Iranian citizens when considering the situation of minorities was in fact a means of concealing the absence of positive measures in favour of minority groups. In connection with the treatment of minorities, Mr. Mehrpour had drawn attention to the unacceptable events occurring in Bosnia and Herzegovina and the flagrant violations of human rights which were reported from that country every day. The Iranian delegation could be sure that those violations would receive full and careful consideration by the Committee at the appropriate time.

44. In conclusion, he expressed the hope that the Iranian delegation's willingness to discuss its report with the Committee on three separate occasions signified that the Committee's comments would be studied - and heeded - by the competent Iranian authorities in the future.

45. Mrs. HIGGINS remarked that in the case of Iran the Committee had found some difficulty in reconciling the State in its normal sense and the spiritual State as represented by Islam. Where issues such as the Covenant were concerned, clearly the overall responsibility of the State should be paramount.

46. Taking up the areas of greatest concern to the Committee (in the order of the articles of the Covenant), she drew particular attention to the unsatisfactory situation regarding the rights of women (article 3), especially in matters of dress and lifestyle. Obviously women who did not wish to change should not be forced to do so, but it was quite wrong to threaten and penalize those women who were desirous of change. The fact remained that the State

religion required 50 per cent of the population to dress in a manner which they did not necessarily want and to follow a lifestyle which they would not necessarily choose. In connection with the right to life (article 6), she was still concerned at the large numbers of death sentences. Mr. Mehrpour had accepted at the previous session that capital punishment should be reserved for the most serious crimes, but had insisted on the State's right to decide which crimes those were. The fact that that category apparently included adultery, corruption on earth and destabilization of society cast doubt, in the Committee's judgement, on the criteria adopted for selecting which crimes should be subject to the death sentence. The next outstanding issue was the various forms of corporal punishment inflicted (article 7) - a subject on which the Special Representative of the Commission on Human Rights had experienced the greatest difficult in obtaining precise information. Compliance with article 14 was still far from satisfactory: the charges brought were vague and court cases rapidly disposed of. Although she welcomed the information on the speed with which appeals were heard and on the number of verdicts which had been overturned, she would still like to know which categories of verdicts had been overturned. It appeared, moreover, that the Special Representative had looked at the same figures and come to a very different conclusion from the delegation. The area of greatest concern was that of trial before the Revolutionary Courts, where guarantees of the defendant's rights were seriously reduced both in law and in reality.

47. Mr. Mehrpour, after declaring that a person could not be punished for his religious beliefs (article 18), had argued that there was no obligation for the Government to recognize any particular religion. The requirement under the Covenant was, however, for a person to be allowed to believe what he wanted to believe and to be permitted to manifest those beliefs in public. It had been claimed that the case of the Baha'i community was different: the Baha'is were permitted to hold their religious beliefs in private, but their past history suggested that manifestation of their beliefs in public might involve problems of public order. Imprecise allegations of that nature did not, in her view, justify a denial of the freedom of religion - still less a denial of civil rights. Furthermore, what had been said about digging up cemeteries to provide green spaces was positively gruesome.

48. In connection with article 19 and specifically the Salman Rushdie case, Mr. Mehrpour had questioned the competence and jurisdiction of the Committee and suggested that the Committee should confine itself to examining the periodic reports of States parties. She wished to make it quite clear that the Committee's primary function was to monitor compliance with the Covenant. Periodic reports normally provided a sound basis for that, but there were many other sources of information, and for obvious reasons the Committee could not confine itself to such reports. The Committee had accordingly acted entirely properly in the case in question.

49. Mr. Mehrpour had declared that his Government had accepted the provisions of the Covenant - as indeed it was bound to do - but that the Committee had to accept a measure of specificity in the interpretation of how the provisions of the Covenant would be carried out. However, while the specificity principle could be held to explain different means of guaranteeing rights in different countries, it could never justify a country ignoring altogether the existence of those rights. Since equal rights for men and women were required under the

Covenant, neither religion nor customs could provide grounds for denying those rights. Again, cruel or inhuman treatment could not be condoned on grounds of specificity.

50. Mr. WENNERGREN said that the information supplied by the Iranian delegation and the time devoted to dialogue with the Committee were evidence of the delegation's close interest in the subject of human rights and its desire to achieve concrete results. It was clear that the State party was not implementing the Covenant in full. The reason for that was again clear: in Iran the Covenant was being implemented within the framework of the Islamic Shariah. Cruel punishment, for example, was strictly prohibited by the Covenant, but was in conformity with the Shariah. The same applied to the restriction of the freedom of religion, while many other examples could be cited. In other words, the State party was adopting a ne plus ultra doctrine and implementing the Covenant up to a certain level only. It was nevertheless possible to discern some progress - progress in procedures, improvement in the judicial system and advances in regard to the freedom of expression and equality between the sexes. Progress was certainly slow, but the essential thing was that progress there was. It was even more essential that it should continue.

51. Mr. SADI, noting with appreciation the seriousness with which the Iranian delegation had approached the dialogue in the course of three sessions of the Committee, suggested that a number of the difficulties encountered might well stem from mutual misunderstandings - of questions posed, on the one hand, and of answers provided, on the other.

52. One certain misunderstanding by Mr. Mehrpour which he wished to dispel at once was that the Islamic Republic of Iran had been singled out for particularly harsh scrutiny by the international community, and in a sense victimized on that account. All the information that was brought out of that country - by intergovernmental bodies as well as by NGOs - pointed to the harshness of the situation there; as for victims, the figure of 100,000 executions since the Revolution spoke for itself, as did the statistics and descriptions of detentions, and accounts of the manner in which women were treated. Did that not illustrate the magnitude of the problem and justify a special concern in the outside world, not least in the Human Rights Committee?

53. There could be no doubt as to the seriousness of the human rights situation in the Islamic Republic of Iran, but the very negative picture might in some measure be corrected, in the first place, by confidence-building measures on the part of the authorities: the Committee would certainly welcome clear signs of an effort, for example, at least to scale down the number of executions; to improve the conditions of detention; to ameliorate the due process of law by ensuring the fairness of trials; to demonstrate greater tolerance of divergent opinions; and to reflect, in the better treatment of women, Islam's progressive stand in that respect. Lastly, and more particularly as far as the Committee was concerned, Mr. Mehrpour's suggestion of a visit to his country by some of its members - whether women or men - might indeed be explored as a means of improving reciprocal communication.

54. Mr. NDIAYE commended the Iranian delegation on its evident goodwill and patience. Speaking as a Muslim from a country that was 90 per cent Muslim, he wished to point out that Islam counted almost 1 thousand million followers in over 50 States. Islam signified freedom: on the authority of the Holy Koran itself, there must be no constraints in the matter of religion. Islam signified intellectual progress: for it was written in the Koran that one should travel as far as China, if need be, in quest of science. Islam had introduced the socially progressive notion of marriage; and it should be noted that the Koran looked on polygamy with some disfavour. Islam, as a religion, commanded observance both in letter and in spirit; but it was also subject to the usage and customs prevailing in the different countries; and had indeed, since its very beginnings, been affected by political concerns. But what he wished to stress above all, in the present context, was the essentially social character of the Koran, and more especially the pardon which it announced of offences against God, but not of offences against one's fellows. Mutual respect was indeed central to the Koran's teaching.

55. The initial Iranian report to the Committee (CCPR/C/1/Add.58), submitted in April 1982, had contained the following statement: "It must be acknowledged that in a Revolutionary society in which all former criteria and rules are reversed, much time is needed to establish a new order. This is natural and ordinary in any revolution. For this very reason and in order to see us through this critical period, the Leader of the Revolution declared the year 1360 (1981) as the Year of the Law and, in his orders and edicts, instructed all to comply with laws and protect the rights of individuals."

56. Remarking that the Covenant asked for no more than the implementation of that instruction, he recalled that, reporting to the Committee some 10 years later, in October 1992 (CCPR/C/SR.1194, paras. 44 and 45), the Iranian delegation had further stated that "Under the Islamic system, laws and regulations were not immutable but could be amended to keep pace with changing circumstances", that "it did happen that certain laws were not entirely in accordance with the precepts of Islam", but that "the adjustment of those precepts to the conditions of modern society was entrusted to theologians and competent experts, who could make recommendations for amending the legislation". The delegation had added that "the Guardian Council, set up under article 91 of the Constitution and composed of theologians, examined the particular circumstances of the modern era and pronounced on Islamic rules which should be modified or annulled because of developments in the situation". According to the delegation, "A number of problems had been resolved and many difficulties overcome thanks to dialogue, the exchange of new ideas, and expert analyses designed to formulate new rules that were better adapted to the modern age". In his concluding statement at the beginning of the current meeting, Mr. Mehrpour had further called upon the Committee to assist in adapting Iranian legislation and practice to the provisions of the Covenant. Other members of the Committee had pointed extensively, and sometimes with significant insistence, to all the many instances of discord between the Covenant and what was happening in the Islamic Republic of Iran. For his part, he would only urge the Iranian authorities to pursue - perhaps with a little more speed, given the distance that must be covered - the course of action delineated in the statements to which he had just referred.

57. According to the Holy Koran, the human being was a Divine creation. Respect for one's fellow-beings, irrespective of belief, social origin, race or sex, was thus the first and essential means of serving God. Respect for human rights signified no less than the negation of all forms of oppression of man by man; the Iranian Constitution suggested as much, indicating that submission must be to God's commands. It might be added that submission to God's commands must be voluntary: for another human being to obtain such submission by force would be contrary to the Divine teachings.

58. There was no fundamental incompatibility between Islam and human rights; it was the duty of every Muslim to strive constantly for the improvement and enhancement of respect for others; respect for others included respect for their very difference.

59. Mr. FRANCIS said that there could be no doubt as to the serious shortcomings with regard to the application of the Covenant by the State party: that was principally due to policy decisions at the highest levels. He earnestly hoped that the Iranian authorities would realize that the international community had embarked on a path of peace whose goal was the total economic, political, social and cultural fulfilment of humankind, and that such a goal could only be attained when individual nations were at peace with themselves.

60. As he had remarked at the previous meeting, there remained a hard core of difference between Iran and the Committee with respect to the implementation of the Covenant in the area of religion. Nevertheless, there was room for optimism: firstly because of the tenor of Mr. Mehrpour's closing remarks; secondly, because there was more in common between the Committee and the delegation than divided them; thirdly, and most importantly, because the teachings of Allah shared so much with those of other established religions.

61. The Islamic Republic of Iran, like all the other States parties to the Covenant, was under an obligation to implement its provisions. He was in no doubt as to the commitment of all the members of the Iranian delegation to assist in ensuring that their country, with internal peace restored, joined the world community as soon as possible in moving ahead.

62. Mr. PRADO VALLEJO, after joining in the expressions of appreciation of Mr. Mehrpour's contribution to what he had found to be an interesting and mutually informative dialogue, voiced regret that Iran's renown as a great country and a major contributor to world history had been sullied - even in his own and other distant Latin American countries - by its present human rights record.

63. It was clear that serious ground for concern persisted, notably because of the major divergencies between Iranian legislation and the provisions of the Covenant (in contradiction with its art. 2), and between declared norms and actual practice - religious discrimination, especially with regard to the Baha'is, was one outstanding example. There was all too much evidence that the due process of law was not being secured, particularly in regard to the right of the accused to be defended by counsel. The existence and the scale of application of the death penalty - compounded, as in the matter of Salman Rushdie, by extraterritorial persecution - constituted a flagrant

violation of the State party's commitment under the Covenant to protect the right to life. Notwithstanding Mr. Mehrpour's claim to the contrary, those were certainly issues that rightfully fell within the Committee's sphere of competence. Summary executions and the appalling treatment of detainees, including torture (no country could honestly claim to be innocent in that respect, but some were far more willing to investigate allegations), were also matters of profound anxiety to the Committee. Freedom of the press left much to be desired; the rights of minorities and the rights of women were, at best, restricted. Above and beyond all those specific concerns there lay the uncertainty as to the authority of the Covenant in relation to Islamic law.

64. He could only hope that the substance of the exchange that had taken place would be duly conveyed to the Iranian authorities, and that the Committee's very real concerns would be taken into account in a serious review of the situation, so that a genuine start might be made on the path towards the reforms whereby the conformity between the provisions of the Covenant and Iranian legislation that was so conspicuously lacking might be brought about as soon as possible.

65. Mr. BRUNI CELLI said that previous speakers had voiced what would have been virtually all his own concluding observations. It merely remained for him, therefore, to respond vigorously to Mr. Mehrpour's insinuation that members of the Committee had been unjust in some of their questions. He stressed that, for his part, his inquiries had been based on serious, objective and reliable reports by authorities within as well as external to the United Nations system; the figures and cases he had cited, notably with regard to enforced disappearances and to the execution of Mr. Bahman Samandari, had been substantiated beyond all possible doubt: he had invented nothing.

66. The CHAIRMAN said that he had personally been encouraged by the assurance that the views of members of the Committee, together with the Committee's comments, would be conveyed to the Iranian authorities for careful scrutiny.

67. Reference had been made during the dialogue to diversity and specificity where religions, cultures or peoples were concerned. He himself would contend that there was far more in common between individuals than separated them; human rights were the bedrock on which the guarantees that should be enjoyed by each and every human being must be constructed. Islam was unquestionably a great religion; equally unquestionably, the Islamic Republic of Iran had a great culture and the potential to ensure the full development of all who came under the Government's authority. He looked forward to the realization of that potential.

68. Mr. MEHRPOUR (Islamic Republic of Iran) said that he had listened attentively to the concluding observations by the members of the Committee, to whom he was grateful for their demonstration of understanding and goodwill and for the various expressions of encouragement that had been voiced. He very much hoped that, notwithstanding the note of scepticism that had also been sounded, the dialogue would be pursued, and to constructive ends.

69. He reiterated the determination of the Iranian authorities to promote, inter alia, the entry of women into the magistrature (legal obstacles to which had now been removed), as well as other professions, notably medicine; he was sure that if Committee members of either sex were to visit his country, their comments and advice, like that of other United Nations specialists and expert visitors who had already done so, thereby joining in what indeed were confidence-building measures, would be appreciated.

70. The CHAIRMAN said that consideration of the second periodic report of the Islamic Republic of Iran was concluded.

The meeting rose at 6.05 p.m.